



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

July 6, 2020

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Paula James**
Tax Registry No. 937735
Police Service Area 2
Disciplinary Case No. 2017-17713

The above named member of the service appeared before Assistant Deputy Commissioner Jeff S. Adler on December 16 and 17, 2019, January 15, 2020 and February 5, 2020, and was charged with the following:

DISCIPLINARY CASE NO. 2017-17713

1. Said Police Officer Paula James, assigned to the Community Affairs Bureau, on or about July 6, 2017, while off-duty, did wrongfully engage in conduct prejudicial to the good order, efficiency and discipline of the Department, to wit: said Police Officer James did take property from a Location A store without permission or authority.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT –
PROHIBITED CONDUCT**

2. Said Police Officer Paula James, assigned to the Community Affairs Bureau, on or about July 6, 2017, while off-duty, did wrongfully engage in conduct prejudicial to the good order, efficiency and discipline of the Department, to wit: said Police Officer James did possess stolen property

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT –
PROHIBITED CONDUCT**

3. Said Police Officer Paula James, assigned to the Community Affairs Bureau, on or about and between July 6, 2017, and July 18, 2017, while off-duty, failed to notify the Department upon learning she was a suspect in the aforementioned incident.

P.G. 212-32, Page 1, Paragraph 2

**OFF DUTY INCIDENTS
INVOLVING UNIFORMED
MEMBERS OF THE SERVICE**

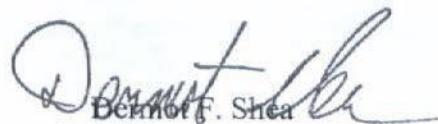
In a Memorandum dated March 27, 2020, Assistant Deputy Commissioner Jeff S. Adler found Police Officer Paula James Guilty of all Specification in Disciplinary Case No. 2017-17713. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

I have considered the totality of the circumstances and issues concerning the misconduct for which Police Officer James has been found Guilty of and deem that separation from the Department is warranted. However, instead of an outright dismissal from the Department, I will permit an alternative manner of separation from the Department for Police Officer James at this time.

In Disciplinary Case No. 2016-16248 a member of the service entered into a post-trial settlement which included vested interest retirement for committing petit larceny. Likewise, in Disciplinary Case No. 2016-15629 a member of the service also entered into a post-trial settlement which included vested interest retirement for committing petit larceny.

It is therefore directed that an *immediate* post-trial settlement agreement be implemented with Police Officer James in which she shall forfeit thirty (30) suspension days (already served), forfeit thirty (30) suspension days (to be served), be placed on one (1) year dismissal probation, cooperate with counseling, waive all time and leave balances, and immediately file for vested-interest retirement.

Such vested-interest retirement shall also include Police Officer James' written agreement to not initiate administrative applications or judicial proceedings against the New York City Police Department to seek reinstatement or return to the Department. If Police Officer James does not agree to the terms of this vested-interest retirement agreement as noted, this Office is to be notified without delay. This agreement is to be implemented **IMMEDIATELY**.



Dermot F. Shea
Police Commissioner



POLICE DEPARTMENT

In the Matter of the Charges and Specifications : Case No.

- against - : 2017-17713

Police Officer Paula James :

Tax Registry No. 937735 :

Police Service Area 2 :

At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Jeff S. Adler
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Jordan Farnham, Esq.
Anna Krutaya, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent: William T. Martin, Esq.
108 Village Square, Suite 143
Somers, NY 10589

To:

HONORABLE DERMOT F. SHEA
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

COURTESY • PROFESSIONALISM • RESPECT

CHARGES AND SPECIFICATIONS

1. Said Police Officer Paula James, assigned to the Community Affairs Bureau, on or about July 6, 2017, while off-duty, did wrongfully engage in conduct prejudicial to the good order, efficiency and discipline of the Department, to wit: said Police Officer James did take

property — ~~from a Location A store without permission or authority~~
P.G. 203 10. Page 1, Paragraph 5 GENERAL REGULATIONS

2. Said Police Officer Paula James, assigned to the Community Affairs Bureau, on or about July 6, 2017, while off-duty, did wrongfully engage in conduct prejudicial to the good order, efficiency and discipline of the Department, to wit: said Police Officer James did possess stolen property.

P.G. 203-10, Page 1, Paragraph 5 GENERAL REGULATIONS

3. Said Police Officer Paula James, assigned to the Community Affairs Bureau, on or about and between July 6, 2017, and July 18, 2017, while off-duty, failed to notify the Department upon learning she was a suspect in the aforementioned incident.

P.G. 212-32, Page 1, Paragraph 2 OFF DUTY INCIDENTS INVOLVING
UNIFORMED MEMBERS OF THE SERVICE

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on December 16 and 17, 2019, January 15, 2020, and February 5, 2020. Respondent, through her counsel, entered a plea of Not Guilty to the subject charges. The Department called Doctor Aleksandra Wianecka and Lieutenant Edward Caro as witnesses, and introduced video footage from multiple cameras positioned throughout the location of the alleged incident. Respondent called Lieutenants Christopher Charles and Jovita Richardson, Reverend Victor Hall, Police Officer Robert Gant, Detective Jason Norman, and Sergeants Brasai Butler, Steve Ward and Vance Merrick as character witnesses, and Respondent testified on her own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having reviewed all of the evidence in this matter, I find Respondent guilty of each of the three specifications, and recommend that she be dismissed from the Department.

ANALYSIS

— This case involves allegations that on July 6, 2017, Respondent stole a pair of sunglasses from Location A) in [REDACTED].

Dr. Aleksandra Wianecka, an optometrist who is the owner of Location A and two other optometry locations, testified that she purchased Location A in May of 2016. Prior to the date of the incident, Respondent had been a patient of Location A and the prior optometric business at the location, for approximately 10 years. Respondent had received an eye examination at Location A on May 22, 2017, at which time she ordered two pairs of eyeglasses, which she subsequently picked up in June. Soon afterward, Respondent contacted Location A to complain that she was having difficulty seeing through one of the pairs, which she had purchased privately, so she returned to Location A to have the prescription rechecked on July 1. The prescription was determined to be correct, but Respondent still requested a refund of approximately \$400, which Location A agreed to in the interest of good customer service (see credit card receipt, Resp. Ex. C). Respondent also complained that she did not want the anti-glare feature on the second pair of glasses, which she had purchased through Davis Vision insurance, and that she wanted to exchange those glasses for a new frame, which the insurance company permitted within 90 days of purchase. (Tr. 26, 29-35, 58-60, 138-42)

On July 6, 2017, Respondent returned to Location A for the purpose of choosing new frames for the Davis Vision glasses. Dr. Wianecka was working at a different location that day, and Location A was being managed by Person A, the office manager. Two days later, Person A notified Dr. Wianecka that there was missing inventory from Location A: specifically, a \$418 pair of Jimmy Choo sunglasses was missing from the shelf. Person A sent Dr. Wianecka video footage taken from the store's motion-detection cameras on July 6. Dr. Wianecka testified that she

had this security system installed at Location A because the old system was antiquated, and there had been a "rash of missing inventory" at the store. The footage that Person A sent to Dr. Wianecka was a copy Person A had saved onto her hard drive (Dept. Ex. 1); the original store recording was subsequently lost due to a power outage at Location A on July 10, possibly in connection with a heat wave. (Tr. 32, 42, 46, 97, 105, 117-19, 127-29, 170)

In that footage, for which Dr. Wianecka provided clarifying testimony, Respondent can be seen interacting with various Location A employees as she goes through the process of selecting new frames. At about 18:05:30, Respondent appears to remove the Jimmy Choo sunglasses from the display case and quickly place them on the front counter behind a display ad; these sunglasses, which come with their own Jimmy Choo sunglass case, were not part of the Davis Vision plan. At 18:06:10, she removes an eyeglass case from her purse, opens the case, places the Jimmy Choo sunglasses inside the case, and closes the case. Respondent then briefly walks off-screen, toward a separate waiting area by a hot beverage machine, which was out of view from the reception desk. She reappears on screen by the front counter at 18:07:43, still in possession of her purse, but the case containing the Jimmy Choo eyewear is no longer in her right hand. Respondent also is not holding a beverage cup. The footage resumes about two minutes later, as Respondent appears to continue working with the lab technician on selecting a new pair of frames. (Dept. Ex. 1, files 5, 12) The video footage in evidence does not capture when Respondent left the location. IAB also prepared an enhanced video for the portion of the incident where Respondent removes the sunglasses from the display case, briefly rests them on the counter, and then places the sunglasses inside her own glasses case. (Dept. Ex. 5). (Tr. 61-63, 71-73, 79-81, 169, 187)

After viewing the video footage, Person A called Respondent about the sunglasses. Person A recorded that phone call, which occurred on July 8; a copy of the recording was introduced as

Dept. Ex. 3. In that call, Person A can be heard confronting Respondent about taking the sunglasses, which Respondent denies. Person A states that Location A will be notifying the authorities. Respondent asks Person A to review the footage since she did not take the glasses, and Person A tells her she is lying. Following that phone call, Dr. Wianecka deferred contacting the police for about two weeks, in order to give Respondent time to return the glasses. When Respondent did not do so, the [REDACTED] police were notified. The Jimmy Choo sunglasses were never recovered. (Tr. 83-84, 88)

Lieutenant Edward Caro, who was assigned to the Investigations Unit of the Community Affairs Bureau at the time of the incident, testified that on July 18, 2017, Respondent was modified in connection with the allegations in this case. [REDACTED]
[REDACTED]

[REDACTED] According to Lieutenant Caro, Respondent did not notify IAB when she was first accused of stealing the sunglasses. On July 24, the date Lieutenant Caro was assigned to investigate the matter, he met with Dr. Wianecka and Person A. As part of his investigation, Lieutenant Caro also took a photograph of the waiting area near the coffee machine (Dept. Ex. 6). (Tr. 258-62, 267, 274, 355-56, 406, 413)

On January 30, 2018, Lieutenant Caro interviewed Person B, who was working at Location A on the day of the incident. Person B stated that Respondent was present at the store on July 6, but Person B did not see or recall seeing anything in relation to the sunglasses in question. Person B, herself, did not recover the sunglasses inside the store, and there were no glasses left on the counter. (Tr. 280-81, 348-55, 403)

Person A, who no longer works at Location A, did not respond to subpoenas to testify at this trial. A copy of her written statement to [REDACTED] Police Department on July 18, 2017 was admitted as Dept. Ex. 4. In that statement, Person A states that Respondent came to Location A on July 6

complaining about both pairs of glasses. According to Person A, Respondent returned to the store the next day, and Person A agreed to refund her the money for the credit her for the anti-glare fee for the Davis Vision glasses (Resp. Ex. C). In her statement, ~~glasses purchased~~.

Person A makes reference to the video footage from July 6, where Respondent can be seen taking the Jimmy Choo sunglasses, putting them behind a sign at the front counter, then placing them inside her own glasses case. (Dept. Ex. 4)

Respondent testified that she went to Location A on July 6 after she was called in to have her eyeglasses re-fitted. While she was there, she tried on other glasses as well. She acknowledged that she picked up the Jimmy Choo sunglasses and placed them inside her own case in order to gauge the size and whether the case was a good fit. Respondent explained that she has several eyeglass cases, and is particular about choosing cases that match her outfit and purse. She also claimed that she had tried on this particular pair of frames on a prior occasion. While she was waiting for one of the workers, Person B, Respondent walked to the side waiting area and got a hot chocolate. Respondent claimed that when she returned to the front counter, she realized that she had accidentally left the glasses case by the coffee/hot chocolate machine. She retrieved the case and returned to the front, where she removed the glasses from the case and placed them on the counter. However, when shown the video footage of when she first walked back from the beverage machine (Dept. Ex. 1, file 5, at 18:07:46), Respondent testified that she believed the eyeglass case was inside her purse. Respondent insisted that she did not steal the glasses. (Tr. 529, 536-38, 568-69, 586-94, 614)

When asked about why she is seen looking around Location A on the video footage, Respondent explained that she is trained as a police officer to be aware of her surroundings. She noted that she is certified in dealing with security systems, and was aware of the camera placements inside Location A. (Tr. 512-13, 541-42)

Respondent testified that on July 7, she had an angry phone conversation with Person A during which a "mean and belligerent" Person A informed Respondent that Location A would not be replacing the eyeglasses that Respondent had returned. Davis Vision called Location A on Respondent's behalf and informed Respondent that Location A would refund the cost of the frames. Respondent had a follow-up conversation with Person A that was pleasant, and Respondent returned to Location A in order to get the refund. (Tr. 532-34, 547, 603)

On July 8, Respondent received a call from Person A regarding the missing sunglasses. During that conversation (Dept. Ex. 3), Person A accused Respondent of stealing the glasses. Respondent denied that she had taken the glasses, and urged Person A to review the video footage closely. Respondent testified that she did not report the accusation to the Department because she believed that Person A was going to investigate the matter further and realize that Respondent had done nothing wrong. Respondent also explained that when she was contacted about the

accusation by a [REDACTED] detective on July 18, she did not have a chance to notify the Department since IAB appeared in person just minutes after the call with the [REDACTED] PD (Tr. 549-52, 603-05, 610-12)

With regard to the case investigator, Lieutenant Caro, Respondent testified that he once became angry with her [REDACTED]
[REDACTED]
[REDACTED]. (Tr. 517, 523-24)

A number of character witnesses testified on Respondent's behalf. Lieutenant Christopher Charles testified that he worked with Respondent in the Community Affairs Bureau for a little over a year. He described Respondent as "extremely dependable, professional, and reliable." (Tr. 200) Lieutenant Jovita Richardson testified that she has known Respondent since 2012, when they worked together in the Community Affairs Bureau. She described Respondent

as honest, and a reliable, hard worker. (Tr. 205-06) Reverend Victor Hall testified that he has known Respondent from their church for approximately 29 years. He described Respondent as highly regarded and respected by her peers, who were "very, very proud of her becoming a police officer." (Tr. 246 47) Police Officer Robert Gant testified that he worked with Respondent at the Brooklyn Courts section for about one year. Respondent was always on time, and was a "team player" who made Officer Gant feel welcomed. (Tr. 297 98) Detective Jason Norman testified that he often came into contact with Respondent at Headquarters approximately 10 years ago. Respondent had a reputation of being trustworthy, and having integrity. (Tr. 303) Sergeant Brasai Butler testified that she and Respondent worked together in a summer youth academy in 2006. Respondent was very dedicated and worked well with the children, who loved her. Sergeant Butler and Respondent developed a friendship wherein they pray with each other. (Tr. 307-09) Sergeant Steve Ward testified that Respondent was one of his rookie officers at the 90 Precinct in 2005. He described Respondent as one of his better officers, someone who was trustworthy and always did what she was supposed to do. (Tr. 436) Sergeant Vance Merrick testified that he became Respondent's immediate supervisor at VIPER in October of 2018. Because of her competence, he has entrusted Respondent with performing important assignments, such as meeting and greeting people at the precinct, handling the interoffice mail run, and picking up and delivering checks by herself. (Tr. 444 48)

Specification 1 charges Respondent with taking a pair of sunglasses from Location A without permission or authority, while Specification 2 alleges that in doing so, she possessed stolen property. Respondent denies stealing the glasses, claiming that she placed them inside her own eyeglass case merely to gauge whether the glasses would fit, and then accidentally left the glasses in the waiting area by the hot beverage machine. When she realized what she had done, she retrieved the glasses and placed them on the front counter. Counsel for Respondent argues

that there was no video footage to contradict Respondent's explanation, and if the glasses subsequently disappeared, it must have been one of the employees of Location A who stole them, a continuation of the recent "rash of thefts" at the location.

After carefully reviewing the evidence, including the video footage, I do not find Respondent's version of events to be plausible or credible. Rather, the video footage makes clear that Respondent stole the sunglasses from Location A. Respondent's behavior, as seen on File 5 of the video, is unmistakably incriminating. She makes a quick grab of the Jimmy Choo sunglasses from the shelf to her right, and, without turning toward the glasses or even looking at them, she places them on the counter, behind what appears to be a cardboard advertisement. Respondent can be seen looking around the store Dr. Wianecka accurately described her behavior as "odd acting" -- before removing and opening an eyeglass case from her purse. Respondent then places the Jimmy Choo sunglasses inside her personal case and closes it.

If Respondent had then removed the sunglasses from the case and returned them, such conduct would have been consistent with her claim that she merely was checking the fit. Instead, Respondent leaves the glasses inside the closed case. With the case in her right hand, along with her purse, Respondent, who admittedly was familiar with the security system at VSO, walks off-camera to the waiting area. Respondent claims that she got a hot chocolate. However, when she returns to the front counter just 36 seconds later, not only is the case containing the sunglasses no longer in her hand, there is no beverage cup in her hand either. Indeed, Respondent, herself, testified on cross examination that she believed the case was inside her purse when she returned to the front counter at 18:07:46, which contradicted her claim on direct examination that she left the case by the beverage machine.

The Jimmy Choo glasses were subsequently discovered to be missing, never to be seen again. Given Respondent's actions in taking and secreting the sunglasses in her own case, and

her overall surreptitious behavior as captured by the video footage. I find it more likely than not that Respondent stole the glasses from the store.

This tribunal is mindful that there are approximately two minutes not captured by the video footage, which Respondent claims was the time she retrieved the glasses and placed them on the front counter. However, that claim is undercut by the fact that when the footage resumes, there is no sign of the glasses on the counter. There are no other customers present at the counter at the time. Moreover, the video footage capturing Respondent's behavior up to that point is so incriminating as to her guilt that I reject as self-serving the assertion that Respondent returned the sunglasses to the counter. Rather, the credible evidence has established that she placed the sunglasses inside her personal glasses case, placed the case with the glasses inside her purse, and left the store with the sunglasses without paying for them. Accordingly, I find Respondent guilty of Specifications 1 and 2.

Specification 3 charges Respondent with failing to notify the Department upon learning that she was a suspect. The written charge references section 212-32 (2) of the Patrol Guide, which states that when an off duty member of service is at an unusual occurrence to which the MOS is either a participant or a witness, she must "request response of patrol supervisor, precinct of occurrence." If the incident occurs outside the City, the MOS must "promptly notify the Operations Unit." However, as Lieutenant Caro testified, the more relevant Patrol Guide section for this situation is 207-21, which states that all members of service have an "absolute duty" to report to IAB any allegation of misconduct of which they become aware. Also, an MOS receiving an allegation of corruption against oneself must request a supervising officer to respond to the scene.

Preliminarily, Respondent asks that this charge be dismissed based on the Department Advocate's having relied upon an incorrect Patrol Guide section. However, I find that

Respondent did receive adequate notice as to the nature of the charge against her. Based on the narrative portion of the specification as well as the Patrol Guide section cited, Respondent was unambiguously apprised that she was being charged with not making the proper notification upon learning that she was being accused of stealing eyeglasses from Location A.

It is undisputed that Respondent did not make any such notification. Respondent claimed that after receiving the phone call from Person A, she did not believe that she was being accused; rather, she thought that Person A would review the video footage and clear Respondent of any wrongdoing. However, the recording of the phone conversation makes clear that Person A is accusing Respondent of stealing the sunglasses. When Respondent denies taking the glasses and asks Person A to review the video footage, Person A tells Respondent that she is lying. Twice during the conversation Person A states that Location A will be notifying the authorities.

As such, the phone call from Person A to Respondent left no room for ambiguity: Respondent was being accused of stealing the sunglasses from Location A. It was Respondent's duty to report that occurrence to the Department. This she failed to do, and I find her guilty of Specification 3.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on January 10, 2005. Information from her personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum. Respondent has no disciplinary record.

Respondent has been found guilty of stealing a pair of Jimmy Choo sunglasses, valued at more than \$400, from Location A, and for failing to notify the Department when she was

initially

accused by the store manager. The Department Advocate asks that Respondent be dismissed from the Department. Based upon the record before me, I concur in that recommendation.

On the one hand, this tribunal is mindful of the strong support Respondent received from multiple character witnesses, each of whom spoke favorably of Respondent. These witnesses came across as sincere as they consistently praised Respondent's positive reputation, both at work and in the community at large. Respondent has no disciplinary record, has received consistently strong performance evaluations, and by all accounts is a hard worker.

However, Respondent's conduct on July 6, 2017 is extremely troubling: she deliberately stole an expensive pair of sunglasses from Location A. Such behavior undermines the high level of

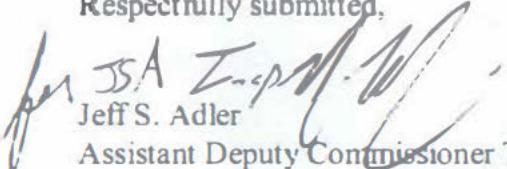
integrity expected of members of the Department, which is why similar conduct has resulted in separation from the Department for the offending parties. For instance, in *Disciplinary Case No.*

(Dec. 22, 2015), a nine-year police officer with no disciplinary history was
2014-12548

dismissed from the Department for stealing merchandise from Target.

Respondent's misconduct here was egregious, and warrants separation from the Department as well. Taking into account the totality of the facts and circumstances in this matter, I recommend that Respondent be DISMISSED from the New York City Police Department.

Respectfully submitted,


Jeff S. Adler

Assistant Deputy Commissioner Trials





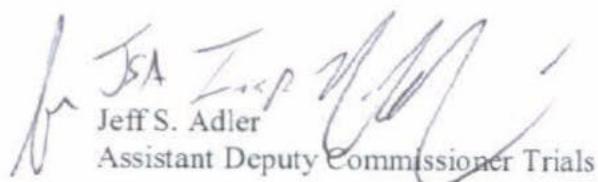
POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER PAULA JAMES
TAX REGISTRY NO. 937735
DISCIPLINARY CASE NO. 2017-17713

Respondent was appointed to the Department on January 10, 2005. On her last three annual performance evaluations, she received 4.5 overall ratings of "Extremely Competent/Highly Competent" for 2014, 2015 and 2016.

Respondent has no formal disciplinary history. She was placed on Level 2 Discipline Monitoring on September 7, 2017 in connection with the charges and specifications in the instant matter; monitoring remains ongoing.

For your consideration.



A handwritten signature in black ink, appearing to read "JSA" followed by a stylized surname. To the right of the signature, the name "Jeff S. Adler" is printed in a standard font, with "Assistant Deputy Commissioner Trials" printed below it.